

Notice of Allowability

Application No.

10/743,488

Examiner

Satya B. Sastri

Applicant(s)

SHELBY ET AL.

Art Unit

1713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to November 29, 2006.
2. ☒ The allowed claim(s) is/are 1-39.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S COMMENT/REASONS FOR ALLOWANCE

1. This office action is in response to the amendment filed on November 29, 2006. ***Claims 1-39*** are now pending in the application.

2. The Declaration under 37 CFR 1.132 filed November 29, 2006 is sufficient to overcome the rejection of claims 1-5, 28-30, 35, 36 based upon JP 56-38367A (English Translation). Additionally, in view of the arguments and upon further consideration, rejection of claims 6-27 under 35 U.S.C. 103(a) as being unpatentable over Masuda et al. (JP56-38367A, English Translation) in view of Buchanan et al. (US 5,292,783) and Warzelhan et al. (US 6,303,677) is withdrawn.

Reasons For Allowance

3. ***Claims 1-39*** are allowed.

4. The following is an Examiner's Statement of Reasons for Allowance:

The instant claims are allowable over prior art to (JP56-38367A, English Translation).

Instant claims recite (a) polymer blends comprising 50-99% by wt. an aliphatic-aromatic random polyester having an inherent viscosity of about 0.8 to 1.6 dl/g and 1-50% by wt. of a poly(ethylene-co-vinyl acetate) copolymer, (b) polymer blends comprising an aliphatic-aromatic random polyester, a poly(ethylene-co-vinyl acetate) copolymer and a biodegradable additive and process of preparing the compositions.

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Prior art to Masuda et al. concerns adhesives comprising 50-97% by wt. of saturated polyester with a melt index at 140°C in the range of 50-400 g/10min and 50-3% by wt. of a vinyl polymer with a melt index at 190°C in the range of 0.5 to 20 g/10min.

The Declaration under 37 CFR 1.132 filed November 29, 2006 provides for correlation of inherent viscosity value range recited as dl/g in instant claims to melt index values as disclosed in the prior art. A 0.8 to 1.6 dl/g viscosity range recited in the instant claims corresponds to a melt index range (at 140°C) of 46.5 g/10 min to 1.35 g/10 min which is outside the 50-400 g/10 min range claimed by Masuda (page 9 of the Declaration). Additionally, Masuda et al. also disclose that the degree of polymerization is so adjusted so that the melt index is 50-400 g/10 min, preferably 70-300 g/10 min. In light of such teaching, one skilled in the art would not be motivated to include in the blend compositions, polyesters with melt index values lower than 50 g/10 min as claimed in instant invention. Therefore, the instantly claimed invention is deemed allowable over closest prior art of record as per said art neither anticipating nor rendering obvious, alone or in combination, the instantly claimed invention.

Any comments considered necessary by applicant must be submitted no later than the payment of the Issue Fee and, to avoid processing delays, should preferably accompany the Issue Fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance.

Future Correspondence

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5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Satya Sastri whose telephone number is 571-272-1112.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on 571-272-1114. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273 8300 for regular communications. The unofficial direct fax phone number to the Examiner's desk is 571-273-1112.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SATYA SASTRI

January 24, 2007


DAVID W. WU
SUPERVISORY PATENT EXAMINER
TECHNICAL CENTER 1700